

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

ALEKSEJ GUBAREV, XBT HOLDING, S.A.
and WEBZILLA, INC.,

Plaintiffs,

v.

BUZZFEED, INC., AND BEN SMITH,

Defendants.

Case No. 17-cv-60426-UU

**MOTION FOR A STAY OF GOVERNMENT DEADLINES
IN LIGHT OF LAPSE OF APPROPRIATIONS**

The Government hereby requests a stay of the deadline to file a position statement regarding the Court's proposed unsealing of the affidavit the Federal Bureau of Investigation ("FBI") was ordered to provide Defendant in the above-captioned matter (hereinafter "FBI Affidavit"). *See BuzzFeed v. U.S. Dep't of Justice*, No. 17-mc-2429 (D.D.C.), ECF No. 33.

1. At the end of the day on December 21, 2018, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The Department does not know when funding will be restored by Congress.

2. Absent an appropriation, Department of Justice attorneys and employees are prohibited from working, even on a voluntary basis, except in very limited circumstances, including "emergencies involving the safety of human life or the protection of property." 31 U.S.C. § 1342.

3. Pursuant to this Court's December 18, 2018 Order Regarding Procedure for Notifying Identified Non-Parties About Potential Unsealing, *see* ECF No. 384, counsel for Defendants Ben Smith and BuzzFeed, Inc. (collectively, "Buzzfeed"), was required to send notice

to the Government about the potential unsealing of the FBI Affidavit. The FBI Affidavit is currently subject to a Protective Order and has been filed under seal by Defendants in this matter. *See* ECF No. 194 (Order Granting Protective Order); ECF No. 203 (Order Granting Unopposed Motion to Seal Government Affidavit).

4. Pursuant to the Court's December 18 Order, the FBI has fourteen days from the date of receipt of Defendant's notice to file a position statement with respect to the Court's proposed unsealing of the FBI Affidavit.¹ *See* ECF No. 384 ¶ 4. The FBI, through undersigned counsel, requests a stay of that deadline, which may be as early as January 11, 2019, to file the requested position statement until Congress has restored appropriations to the Department.

5. If this motion for a stay is granted, undersigned counsel will notify the Court as soon as Congress has appropriated funds for the Department. The Government requests that, at that point, all current deadlines for the parties be extended commensurate with the duration of the lapse in appropriations.

Therefore, although we greatly regret any disruption caused to the Court and the other litigants, the Government hereby moves for a stay of the Government's deadline to file the requested position statement until Department of Justice attorneys are permitted to resume their usual civil litigation functions.

Respectfully submitted this 10th day of January, 2019,

JOSEPH H. HUNT
Assistant Attorney General

¹ In an email dated December 26, 2018, counsel for BuzzFeed informed undersigned counsel for the FBI that BuzzFeed would send notice to the Government about the potential unsealing of its affidavit on December 28, 2018. Undersigned counsel has not been able to verify that such notice was, in fact, sent to the Government on December 28, due to the lapse of appropriations discussed herein. But undersigned counsel is filing the instant motion out of an abundance of caution.

JACQUELINE COLEMAN SNEAD
Assistant Branch Director, Federal Programs Branch

/s/ Anjali Motgi

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